JUS SIGILLI:

Or, the

LAW OF ENGLAND,

Touching

His Majesties Four Principal SEALES, *Viz.*

The *Great Seale*, the *Privie Seale*, the *Exchequer Seale*, and the *Signet*.

ALSO

Of those Grand Officers, to whose Custody these *Seales* are committed

Etiam aperta monstrare plurimum prodest, quia interdum scimus, nec attendimus, Senec. lib. 4. epist. 95.

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FR
MVSEVM
BRITANNICVM

CLARISSIMO,
CONSULTISSIMO,
DISERTISSIMOQUE
VIRO,
DOMINO
Johanni Churchill
In agro SOMERSETENSI
Equiti Aurato,
Magiſtrorum uni venerabilium,
Florentiſſimi Hoſpitii
LINCOLNIENSIS,
De Banco;
Necnon
Hoſpitii ejuſdem
Nuper
Lectori Ampliſſimo,
Conſanguineo ſuo præchariſſimo,
Patronóque apprimè colendo,
Johannes Brydall, Armiger,
ac *Somerſetenſis*,
Opus hoc exile & perexiguum
humillimè
D. D. D. D. Conſecravitque.

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The Kings four principal Seals, *viz.* The *Great Seale*, the *Privie Seale*, the *Exchequer Seale*, and the *Signet*, &c.

THE Law of *England* to ſeverall purpoſes, doth take eſpecial notice of divers Seales, appertaining

to the Kings most Excellent Majesty, *&c.* The *Great Seale*, the *Privie Seale*, the *Exchequer Seale*, and the *Signet*. Of the *Great Seal* are we to treat in the first place: for the Rule, or Maxime is, *A principalioribus, seu dignioribus est inchoandum.*

I. *Of the Great or Broad Seal of* England.

THis Great Seale is in the custody of the Lord Chancellor, or Lord Keeper, and there is a speCo. 2. Inst. 554. cial Officer in the High Court of Chancery, called *Sigillator*, who hath the Sealing of writs, and other

ther things, that passe the Great Seale.

The Chancellor of *England*, or the Keeper of the Great Seale of *England*, is a Lord by his Office, and is of the most honorable Privie Council, under whose hands passe all Charters, Commissions, and Grants of the King, corroborated or strengthned with the Broad Seale: without which Seale all such Instruments, by Law are of no force: And the reason is, because the King is in Intendment of Law a Corporation; and therefore passeth nothing firmely, but under the said Seale.

The Lord Keeper, by the statute of 5. *Eliz.* 18. declared,

5. Eliz. c. 18.

declared to have, according to the Common Law of this Realme, the same, and the like place, Authority, Preheminence, Jurisdiction, Execution of Laws, and all other Customes, Commodities, and advantages, as hath the Lord Chancellor of *England* for the time being. And therefore it is to be observed, that where divers Statutes speak of the Chancellor, and of his Lieutenant, it must of necessity be intended of such a Lieutenant, as the Law doth allow of, and that cannot be of a Deputy, for the Chancellor cannot make a Deputy; but *Locum teneas* is to be taken for one that holdeth the place, or hath

Co. 4. Instit. 88.

Equal

Equal Authority of the Chancellor, & that is *Custos magni Sigilli*: and this is agreeable with the Judgement of the said Parliament in 5 *Eliz.* But all Questions, Scruples, and doubts are now taken away by the said Act of 5 *Eliz.* and at this day there being but one Great Seal, there cannot be both a Lord Chancellor, and a Lord Keeper of the Great Seal at one time, because both these are but one office, as it is declared by the said Act.

Note, that those statutes or Acts of Parliament, which make mention of the Lord Chancellor only do extend to the Lord Keeper also, as the statutes of 33 *H.* 6. c. 1. Co. 3. Inst. f. 104, & 113.

And 28 *H.* 8. cap. 15.

Having ſhewed you, in whoſe Cuſtody the Great Seale is, and that the Lord Keeper hath the ſame Authority, that the Lord Chancellor hath, it will not be much impertinent to preſent to the Candid Reader, the Etymology of the word *Chancellor*, his Antiquity, the manner how he is Created, his Qualifications, his Oath, and Duty, his Juriſdiction and Authority, his Honor and Precedency, his Priviledges, his Aſſiſtants, and laſtly the Officers that are attendant on his Lordſhip, by virtue of the Great Seale of England.

1. *The*

1. *The Etymology of the word Chancellor.*

THe name of Chancellor *Cassiodorus* fetcheth from *Crosse Grates* or *Latteſſes*, becauſe Chancellors examined matters within places ſevered apart, encloſed with partitions of ſuch croſſe Barres, which the Latines call *Cancelli*: Regard, ſaith he, to the Chancellor, what name you bear; it cannot be hidden, which you doe within Latteſſes. For you keep your Grates high ſome, your Barres open, and your Doores tranſparent as Windows. Whereby it is evident, that he ſate within Grates, where he was to be ſeen

on every side, and therefore it may be though he took that name. But considering, it was his part (saith our *Camden*) to strike, and dash out with crosse Lines Latteſs-like, those Letters, Commissions, Warrants, and Decrees passed against Law, and Right, or prejudicial to the Commonwealth, which not improperly they termed to *Cancell*, some think the name of *Chancellor* came from this Cancelling: and in a Glossary of latter time thus we read, *A Chancellor is he, whose Office is to look into, and peruse the Writings, and Answers of the Emperor; to Cancell what is written amisse, and to signe that which is well.*

Agreeable

Agreeable to this are the words of Sr. *Edward Cook*: The Judgement, saith he, in a *scire facias* to repeale the Kings Letters patents is this, *Quod prædictæ Literæ patentes dicti Domini Regis revocentur, Cancellentur, evacuentur, adnullentur, et vacuæ, & invalidæ pro nullo penitus habeantur, & teneantur; ac etiam quod Irrotulamentum eorundem cancelletur, cassetur, & annihiletur &c.* Hereof our Chancellor of *England* (for foreign Chancellors, it may be, have not like Authority) is called *Cancellarius, à Cancellando*, i.e. *à digniori parte*, being the highest point of his Jurisdiction, to Cancell the Co. 4. Inst. 88.

Kings Letters patents under the Great Seale, and damning the Inrolment thereof, by drawing ſtrikes through it, like a Latteſſe.

2. *The Antiquity of this Officer.*

BOth the Britiſh, and Saxon Kings had their Chancellors; as taking ſome few Examples before the Conqueſt; *Edward the Confeſſor* had *Reinbald* his Chancellor: He had alſo *Lefricke* to his Chancellor: King *Edgar* had *Adulph*: King *Edred* had *Thurkettle*: King *Edmond* the ſame: King *Athelſtan*, *Wolfine*, their Chancellors &c.

3. *His*

3. *His Creation.*

THe Lord Chancellor hath no Commiſſion by Letters patents, as all other Judges and Sheriffes have, but he receiveth only his Authority by the delivery unto him of the Great Seale of *England*; and other Grant, or Patent for this great Office, there needs not be, for that the perſon, to whom this Office is committed, hath the keeping of the Great Seale in his own hands. Thus ſayes one; and to the ſame Effect are the words of *Coke*: He is made Lord Chancellor of *England*, *per traditionem magni ſigilli ſibi per Dominum Regem*, and by taking his Oath. Co. 4. Inſt. 87.

Oath. But the forme and manner of ordaining a Chancellor was in the time of King *H.* 2. by hanging the Great Seal of *England* about the neck of the Chancellor Elect.

Camden f. 131.

Note, ſome have gotten it by Letters patents at will, and one for Term of his Life; but it was holden void, becauſe an antient Office muſt be granted, as it hath been accuſtomed.

Co. 4. Inſt. 87.

4. *His Qualifications.*

BEſides the natural Faculties (ſays Sr. *Jo. Davys*) and powers of his mind, which he ought to have in great perfection, he muſt be furniſhed with all Learning, that hath

hath any Relation to the publique good; *Divinity*, *Law*, *Policy*, *Morality* and eſpecial *Eloquence*, to impart and communicate all the reſt. He muſt withall have a long, and univerſal Experience in all the Affaires of the Commonwealth: He muſt be accompliſhed, and abſolute in all points of Gravity, Conſtancy, Wiſedome, Temperance, Juſtice, Piety, Integrity, and all other vertues, fit for Magiſtracy, and Government; yet ſo as the ſame be ſeaſoned, and tempered with Affability, Gentleneſs, Humanity, Courteſie, howbeit without deſcending or diminiſhing himſelf, but ſtill reteining

his

his dignity, ſtate, and honor. Briefely, he muſt be a perſon of ſuch vertue and worthineſs, as his Life may be a Cenſure, and his Example a Mirror for all other Magiſtrates. Theſe are the Excellencies, and perfections, wherewith the Chancellor muſt be qualified, and adorned. And thus qualified indeed is the Right Honorable Perſonage, that is now Lord High Chancellor of *England*.

5. *His Duty.*

THe Lord Chancellors Office and Duty is included in the Oath, that his Lordſhip taketh, upon the delivery of the Great Seale, and this ſame Oath conſiſteth upon

ſix

ſix parts; He ſhall Swear:

1. *That well and truly he ſhall ſerve our Soveraign Lord the King, and his people, in the Office of Chancellor.* Co. 4. Inſt. 88.

2. *That he ſhall doe right to all manner of people, poore, and rich, after the Laws, and uſages of the Realme.*

3. *That he ſhall truly counſel the King, and his Counſel he ſhall layn, and keep.*

4. *That he ſhall not know, nor ſuffer the hurt, and diſheriting of the King, or that the Rights of the Crowne be decreaſed by any means, as far as he may lett it.*

5. *And if he may not lett it, he ſhall make it clearly,*

clearly, and expressely, to be known to the King, with his true advice, and counsel.

6. And that he shall doe, and purchase the Kings profit in all that he reasonably may.

6. *His Jurisdiction, Power and Authority.*

THe Lord Chancellor is the chief person for matter of Justice (in Civil Causes especially) next unto our Gracious Soveraigne Lord, the Grand dispencer of the Kings Bounty, and Mercy: For whereas all other Judges in this Kingdome are tied to strict Rules of Law, and may not swerve from them, in Judgement, the Lord Chancellor hath in

n this a more absolute
Power, to moderate, and
temperate the written Law,
ordering all things, *juxta æquum, et bonum* and therefore he is sayd in our Books, to have two Powers, one Extraordinary, the other Ordinary; intimating, that though by his Ordinary power in some Cases, he must observe the forme of proceeding as other ordinary Judges, yet that in his Extraordinary power, he is not limited by the Law but by Conscience, according to the Circumstances of the matter in Question. And this appeares out of the words of my Lord *Coke*: In the Chancery, sayes he, are two Courts, one Ordinary,

dinary, *Coram Domino Rege in Cancellariâ*, wherein the Lord Chancellor proceeds according to the right line of the Laws, and Statutes of the Realme, *secundum Legem, et Consuetudinem Angliæ*. Another Extraordinary according to the Rule of Equity, *secundum æquum, & bonum*. vide 8 E. 4. 5. 9 E. 4. 15. 14 E. 4. 7. *Stamf. prær. c. 20. f. 65. b. Plowdens Comment. f. 72. Hob. Rep. Martin v. Marshal, & Key f. 63.* Of these two Powers I shall speak more particularly, as followeth:

Co. 4. Inst. f 79. 3. Inst. f. 71.

1. The Lord Chancellor by his Ordinary power may hold plea of *Scire facias*, to repeale the Kings Letters Patents, under

under the Great Seal, being alwayes inrolled in the Court of Chancery, which ſaid Writ of *Scire facias*, to repeale, or cancell Letters Patents, doth lye in this Ordinary Courſe of Juſtice in 3 Caſes, *ſc.*

First, when the King by his Letters Patents doth grant by ſeveral Letters Patents, one and the ſame thing to ſeveral perſons, the former Patentee ſhall have a *Scire facias*, to repeale the ſecond Patent.

Secondly, when the King granteth any thing, that is grantable, upon a falſe ſuggeſtion, the King by his prerogative *Jure regio*, may

may have a *Scire facias*, to repeale his own graunt.

Thirdly, when the King doth graunt any thing, which by Law he cannot graunt, he *Jure Regio* (for advancement of Justice, and Right) may have a *Scire facias*, to repeal his own Letters Patents.

The Lord Chancellor hath likewise power to hold plea of Petitions, *Monstrans de Droits*, Traverses of Offices, partitions in Chancery, of *Scire facias* upon Recognizances in this Court, writs of *Audita Querela*, and *Scire facias* in the nature of an *Audita Querela*, to avoyd

Co. 4. Inst. 79, & 80.

Exe-

Executions in this Court; Dowments in Chancery, the writ *de Dote assignanda* upon Offices found, Execution upon the Statute staple, or Recognizance in nature of a Statute staple upon the Act of 23 H. 8. but the Execution upon a Statute Merchant is returnable either into the Kings Bench or into the Common Pleas, and all personal Actions by or against any Officer, or Minister of the Court of Chancery, in respect of their Service or Attendance there. Thus much of the Lord Chancellors Ordinary power, proceeding *secundum Legem, & consuetudinem Angliæ.*

2. The Lord Chancellor hath a share of his Extraordinary

traordinary power, that is absolute, and unlimited (though out of Discretion his Lordship doth entertaine some formes, which he may justly leave in special Cases) bindeth and looseth the proceedings of Law, and decideth Causes, by the Rules of his own Conscience; He being sole Judge both in the Court of Equity, and in the Court concerning the Common Law, but in Cases of weight or difficulty he doth assist himself with some of the Judges of the Realme, and no greater exception can be taken hereunto than in case of the Lord Steward of *England* being sole Judge in tryal of the Nobility, who also

Hobarts Reports Martin V. Marshall & Key.

Co. 4. Inst. f. 84.

also is assisted with some of the Judges.

By vertue of this extraordinary power his Lordship judges according to his Conscience of all Covins, Frauds, and Deceipts, of Accidents, Breaches of Trust and Confidence, of Defects of Remedy at Law, of Incertainties, and the like. Thus much of the Lord Chancellors Jurisdiction ordinary, and extraordinary in the high Court of Chancery. I now proceed to other Incidents of his Authority, and power, which he enjoyeth by the Delivery of the Broad Seal of *England*.

To his Lordship belongeth the constitution of the Justices of peace, and *Quorum* Lamberts Justice of peace Lib. I. c. 5.

Quorum by Commission, throughout all *England*. And by the Act of 3 E. 6. c. 1. he was restored to his antient Authority, in naming the *Custos Rotulorum*.

Co. Litt. 96. a. 344. a. Davys Reports De capitulariter congregatis 46. b.

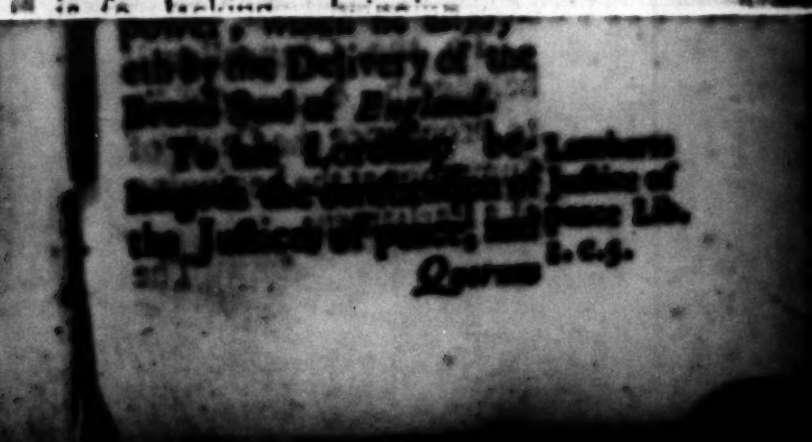
It appertaineth to the Chancellor of *England* to visit all Hospitalls, which be of the Kings Foundation, or of any of his Progenitors. And so likewise the Free-Chappels of the King, or of any of his Royal predecessors, no Ordinary shall visit, but onely the Chancellor

[illegible] also

The Chancellor is to be preſent at all the Kings Councils, and thither to repair uncalled.

As often as the place of any of the Juſtices at Weſtm. by Death, or otherwiſe is void, the King uſeth to chooſe one of the Serjeants at Law, and him by his Letters patents to ordeine a Juſtice, in the place of the Judge ſo ceaſing, And then the Lord Chancellor of *England* ſhall enter into the Court, where the Juſtice

Fortescue C. 51.



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To the Chancellor it belongeth, *Ratione Officii*, to pronounce the Cause of Summons at the beginning of a Parliament.

The

The Chancellor is to be present at all the Kings Councils, and thither to repair uncalled.

As often as the place of any of the Justices at Westm. by Death, or otherwise is void, the King useth to choose one of the Serjeants at Law, and him by his Letters patents to ordeine a Justice, in the place of the Judge so ceasing, And then the Lord Chancellor of *England* shall enter into the Court, where the Justice is so lacking, bringing with him those Letters patents, and sitting in the middest of the Justices, causeth the Serjeant so elect, to be brought in, to whom in open Court he

Fortescue C. 51.

notifieth the Kings pleasure touching the Office of the Justices, thus void, and causeth the aforesaid Letters patents to be openly read: which done, the Master of the Rolls shall read before the same Elect person, the Oath that he shall take; which when he hath sworn upon the holy Gospel, the Lord Chancellor shall deliver unto him the Kings Letters aforesaid.

Co. 4. Inst. 81, & 82.

Note: Divers Acts of Parliament give Authority to the Lord Chancellor, to hear and determine divers offences and Causes in the Court of Chancery, which is ever intended in the Court proceeding, *secundum Legem et consuetudinem*

etudinem Angliæ.

7. *His Honour and precedence.*

Cancellarii Angliæ, says *Fitz Stephen*, *dignitas est, ut secundus à Rege in Regno habeatur*; The dignity of the Chancellor of *England* is this, He is reputed the Second person in the *Realme*, and next unto the King.

By the Statute of 31 *H.* 8. c. 10. the Lord Chancellor hath the precedency of all other Great Officers of the *Realme*.

8. His Priviledges.

THE Lord Chancellor by the Statute of 21 *H.* 8. c. 13. may have three Chaplains, whereof every one may purchase a Licence, or dispensation, and receive and have two Benefices with Cure of Souls.

By the Stat. of 27 *H.* 8. c. 11. The Lord Chancellor may pass things through the Seals, without paying any Fees.

It is a priviledge appertaining to his Lordship, to present to all the Kings Churches or Benefices, which are under value, that is under 20 marks, and be in the Kings Gift,

Plowd. Com. Hare v. Bickley 528.

and

and in *jure Coronæ*, and whereof his Majesty is Patron. But if the King have them by any collateral Title, the Lord Chancellor shall not have these presentments, but the King.

9. His Assistants.

IN the High Court of Chancery sit as Assistants to the Lord Chancellor in matters of Judgement, twelve Masters of Chancery, whereof the Chief and Principal is the Master of the Rolls, antiently called *Gardein des Rolls*, *Clericus Rotulorum*, *Custos Rotulorum*: His Office is a very antient Office, and grantable either

Co. 4 Inst. 95.

ther for Life, or at Will, at the pleasure of the King. The house annexed to his Office, is called *Domus Conversorum*, so called because King *H.* 3. founded this house of Jewes as should be converted to the true Religion of Jesus Christ, and there should have maintenance, and allowance, which continueth to this day. King *E.* 3. *anno* 15. of his Reign, by Letters Patents annexed this House to the Office of *Custos rotulorum*, and this Office is grantable by Letters Patents.

10. *His*

The Officers and Ministers that do principally attend on his Lordship, and do their service to the Great Seal, are, the Clerk of the Crown, the Clerk of the Hanaper, the Sealer, the Chafe-Ware, the Controller of the Chancery, twenty-four Coursitors, the Clerk of the presentations, the Clerk of the faculties, the Clerk examiner of Letters Patents, the Clerks of the petty bag, the six Clerks, the two Examiners, and the Registers. Co. 4. Inst. 82.

Having thus far spoken concerning the Antiquity, Creation, Qualifi-

cations, Jurisdiction, Dignity, Privileges &c. of that person, to whom the care and Custody of the Great Seal of *England* is committed by our most Gracious Soveraign Lord the King, it followeth in order to shew you the Law of *England* immediately touching, and appertaining to this Great Seal, as 1. What a Seal is. 2. The Antiquity of Sealing. 3. What *sigillum Regis* generally spoken means. 4. The manner of pleading any thing under the Great Seal. 5. What things must pass the Great Seal to make them valid, and Authentique in our Law. 6. The remedy, or way to have things under the

Great

Great Seal, as the Case shall require. 7. The Diversitie betwixt a *Constat*, *Exemplification*, *Vidimus*, *Inspeximus*, *Innotescimus*, *&c.* 8. and lastly, The Counterfeiting the Great Seal of *England*.

1. *What a Seal is.*

Sigillum est, says *Coke*, *Cera impressa, quia sine impressione non est Sigillum*; And therefore it is required that Deeds, Charters, or other writings must be Sealed; that is, have some Impression upon the wax, otherwise they have not the validity, and force of Deeds without a Seal. Co 3. Inst. f. 169.

2. The Antiquity of Sealing.

THe Sealing of Charters, and Deeds is much more antient than some, out of Error, have immagined, for the Charter of King *Edwin*, brother of King *Edgar*, bearing date *Anno Domini* 956. made of the Land called *Feckles* in the Isle of *Ely*, was not only Sealed with his own Seal (which appeareth by these words, *Ego Edwinus gratia Dei totius Britannicæ telluris Rex meum donum proprio sigillo meo confirmavi*) but also the Bishop of *Wincheſtre* put to his Seal, *Ego Ælfwinus Winton.*

Co. Litt. f. 7. a.

Winton' Ecclesiæ divinus Speculator proprium sigillum impressit: And the Charter of King *Offa*, whereby he gave the Peter-pence, doth yet remain under Seal. But no King of *England*, before, or since the Conquest, Sealed with any Seal of Armes, before King *R.* 1. but the Seal was the King, sitting in a Chayr on the one side of the Seal, and on horseback on the other side in divers Forms.

3. *Sigillum Regis* what.

Sigillum Regis generally spoken is always intended the Great Seal *propter Excellentiam*, according to the Rules of the

the Common, and Civil Law.

Verbum æquivocum sumitur in partem dignioren, & potentiorem.

Verba æquivoca, & in dubio posita intelliguntur in dignioris & potentioris sensu.

Verba sunt semper intelligenda in potentiori significatu. And so is our *Bracton* to be understood Lib. 3. f. 119. where he saith; *Si aliquis accusatus fuerit, vel convictus, quod sigillum Domini Regis falsaverit, consignando inde Chartas, vel Brevia &c. pro voluntate Regis Judicium sustinebit.*

4. The

4. *The pleading a thing under the Great Seal.*

THe pleading of a Commission, or Proclamation, and doth not say, *Sub magno sigillo*, whether it be good or no take these two following Cases, *scil.*

1. There was Covenant brought for not Building of an House, where the Defendant covenanted, That he would erect three Houses upon such Land demised unto him, unless he were restrained by the Kings proclamation &c. The Defendant pleaded, That such a day and year the King made a Proclamation, to restrain

Cro. 3. part Keyley v. Manning f. 180, 181.

restrain building; and thereupon the Plaintiff demurred; and the Cause shewn was, because a Proclamation was pleaded, and no place expressed where the Proclamation was made, and so no Issue, if Issue should have been joyned thereupon; Also because it is not pleaded, to have been made *sub magno Sigillo Angliæ*, otherwise it is not good. And of this Opinion were all the Court, upon the first motion, because a Proclamation binds not, unless it be under the Great Seal, and if it be denyed, there can be no Issue thereupon (but only *Nul tiel Record*) which cannot be, unless he plead it

it *sub magno sigillo*. But afterwards being again moved, *Jones*, and *Whitlocke* seemed to doubt thereof, because when it is pleaded, that such a Proclamation was made, it shall be intended duely made: as in *Rescous*, it is returned, *Quod fecit warrantum*, although it be not pleaded in writing, yet it shall be so intended. But it was thereto answered, True it is when it is but by way of Inducement, but otherwise, when it is the Substance of the Plea: whereuppon it was adjourned.

2. In the Case, betwixt *Stone* and *Newman*, it was moved upon Exceptions to the Pleading:

One

One of them was, That the Indictment was by vertue of a Commission granted to divers persons, and he doth not say, *sub magno sigillo Angliæ*, And that the Attaynder was upon the Tryl baefore the Comissioners, and he doth not say, *sub magno sigillo*, so as, if it were not *sub magno sigillo*, it is not good. And in proof thereof, the pleading in the Common Bench, in *Moulrons* Case was remembred, That the Commission was *sub magno sigillo*; And in *Huntleys* Case, in the Court of Kings Bench, because the Deprivation was found before the Commissioners Ecclesiastical *virtute Commissionis*, to them directed,

Gro. 3. part Stone v. Newman f. 461.

MVSEVM BRITANNICVM

ed, and doth not say, *sub magno Sigillo*, it was held to be ill, and *Coke* Lib. 5. f. 51. Letters Patents were pleaded *sub magno sigillo*; And although it be true, that in *Plowd. Com.* in *Wakefinghams* Case, it is pleaded as here, and doth not say, *sub magno sigillo*, and yet Judgement given; It was said, that was because no exception was taken thereto: And in *Coke* Lib. *Entr.* f. 174. the Commission is pleaded by Letters Patents, *sub magno sigillo*, and an Attayndor by vertue thereof, *& ibid.* 194. in the Case of Sr. *Mayle Finch* it was so likewise pleaded: so generally the pleading is *sub magno sigillo*: otherwise it is ill,

as

as no Attaynder pleaded. And of that Opinion was *Jones* at the first; but afterward upon search of Presidents, whereby it appeared, that sometimes *Sub magno sigillo* was omitted, and when it is shewn, *Quod per Literas Patentes Commissionis* (omitting *sub magno sigillo*) it is to be intended under the Great Seal and not otherwise. All the Court agreed, that although it were the better Course to shew, that it was *sub magno sigillo*, yet being ommitted, it is well enough, and good both ways: And they agreed, that here, according to the greater Opinion in the Exchequer Chamber, Judge-

Judgement should be entered for the Playntiff.

Note; Letters Patents being matter of Record, and shewn to the Court, under the Great Seal, cannot be denyed, neither can the party say, *Nul tiel Record.* Co. Litt. 260. a. Lib. 6. Edens Case.

5. *What things ought to pass the Great Seal.*

1. *Auditors.*

THe nomination of Auditors in the Court of wards ought to be under the Great Seal. *Coke Lib.* 11. *Auditor Curbes* Case.

2. *Sum-*

2. *Summons in Parliament.*

He that declares the Cause of Summons in Parliament, not being Chancellor, or Lord Keeper, must at this day have a Commission under the Great Seal. The form of that Commission you may see in Mr. *Elsings Modus tenendi Parliamentum.*

3. *Kings Treasure.*

No Officer of the King can dispose of any part of the Kings Treasure, for the profit, and Honour of the King, without warrant under the Great or Privie Seal. *Co. Lib.* 11.

Earle

Earle of *Devons* Case.

4. *An Office of Intitling.*

One *Tregose* was indicted of a *Præmunire* upon the Statute of 13 *Eliz.* and afterward made a gift in Tail of that Land, and was after attaynted by Verdict, and had Judgement for the said Offence; And it was afterwards found by Inquisition, upon a Commission out of the Exchequer, that *Tregose* was seised in Fee of those Lands at the time of the Offence committed; And that the Queen by Patent granted those Lands to Sr. *Geo. Cary &c.* One of the Questions was, whether this Patent after the Inqui-

Cro. 3. part. Grosley. Gager.

Inquisition by Commission under the Exchequer Seal (no Office being found by Inquisition under the Great Seal) be good by the Statute of 18 *Eliz.* c. 2. which makes Patents upon valuable Consideration good, notwithstanding there be not any Inquisition under the Great Seal? It was resolved, that in this Case nothing vested in the King, untill Office found; and it ought to be an Office by Commission under the Great Seal; For the Frank-tenement, being in the party offending at the time of the Attaynder, it shall not be divested from him, and in the King without Office by Commission under the Great

Great Seal, which is only an Office to intitle the King, and not by Inquisition, by vertue of a Commission under the Exchequer Seal, which is but for Instruction, or Information to the King, and for his Officers, to put the Lands holden of the King in Charge: but here the Lands are not come unto the King, until Office found.

5. *Reteiner.*

If a man be indicted of Felonie, and found guilty, and being in Prison, the King may retain him to serve in his Warr, on this side, or beyond the Seas, but this *Retainer* must be under the Great

Great Seal. Co. 3. Inst. f. 239.

6. *Private Acts not Printed.*

All such private Acts as are not imprinted, if a man will have the same Exemplified, he must transmit the same to the Lord Chancellor, to be ingrosses, and sealed under the Great Seal.

7. *Essoyne and Protection.*

No *Essoyne de servitio Regis*, or writ of Protection can be warranted, or allowed, unless it be under the Great Seal, and the Reason is, because they tend to the delay of Justice,

stice, if they be not duely obteined, and therefore the Law requireth the Great Seal. *Co. Litt.* 131. *a. Co.* 2. *Inst. f.* 555.

1. *Travelling beyond Seas.*

The King may graunt Licence to travel beyond Seas, either under the Great Seal, Privy Seal, or Signet, but he cannot recall one that is beyond Seas, but by the Great Seal or Privy Seal. *Co.* 3. *Inst. f.* 179. & 180.

9. *Guardian of England.*

The Parliament cannot begin but by the Royall Presence of the King, either in Person or by Re-

 presen-

presentation: By Representation two ways, either by Guardian of *England* by Letters Patents, when the King is *in Remotis* out of the Realm, or by Commission to certain Lords of Parliament representing the Person of the King, he being within the Realm, in respect of some Infirmitie. Either of these ways, *viz.* by Letters Patents, or Commission it must be under the Great Seal. *Co. 4. Inst. f. 6.*

10. *Steward of England.*

The *Steward* of *England* for the Tryal of a Nobleman must be constituted by the Kings Commission under the Great

Great Seal of *England*. Co. 3. *Inst. f.* 28.

11. *Person accused of Treason.*

A discharge from the King of further proceeding against a Person accused of Treason, or Felony, must be under the Great Seal of *England*. Co. 3. *Inst. f.* 239.

12. *A Ward.*

A Question was, whether a Lease for years, *durante minore ætate*, may be under the Seal of the Court of Wards; or ought to be under the Great Seal? And the Court held it, to be well enough,

under the Seal of the Court of Wards, and so hath ever been the practice, since the Creation of the Court of Wards: And they likewise held, That a Lease of the Land might be well before Office: But of the Body it cannot be granted but under the Great Seal, and after Office. *Cro.* 1. Part, *West* v. *Lassels.*

13. *Claymes before a Coronation.*

At every *Coronation* the Lord Steward of *England* hath a Commission *hac vice*, to hear, and determine the Claymes for grand Serjeanties, and other honourable Services to be done at the *Coronation*

tion for the solemnization thereof, and this Commission is under the Great Seal of *England*. *Co. 4. Inst. f. 59.*

14. *President of the Council.*

The Office of the *President* of the *Council* was never granted but by Letters Patents under the Great Seal. *Co. 4. Inst. f. 55.*

15. *Riotts, Extortions &c.*

For Riotts, Extortions, Oppressions, &c. by persons done against the Kings Peace, and Laws, to divers of his Liege people, Commandment hath been

and is given by the Kings Writ under the Great Seal, to appear before the King in Chancery, &c. *Co. 4. Inst. f. 61.*

16. *Redress of Delays.*

The Commission, and power of a Prelate, two Earls, and two Barons to redress delays of Judgement must be under the great Seal. *Co. 4. Inst. f. 69.*

17. *Judges discharged.*

The Chief Justice of the Kings Bench, and the rest of the Judges may be discharged by Writ under the Great Seal. *Co. 4. Inst. f. 75.*

18. *Pro-*

18. *Process in Star-chamber.*

All the writs, and processe of the Court of Star-chamber are under the Great Seal. *Co. 4. Inst. f. 63, & 66.*

19. *The Office of the Treasurer.*

The Lord Treasurer of *England* hath granted to him by Letters Patents under the Great Seal, *Thesaurariam Scaccarii Regis Angliæ*, which of antient time was a distinct Office by it self. *Co. 4. Inst. f. 105.*

20. *Lands in the Kings Hands.*

To the end that no Lands in the Kings Hands, which ought to be to the Kings Profit, should be without a Farmor, that should yield a Rent to the King, the Treasurer in certain Cases, and with certain Cautions ought to make a Warrant to the Great Seal for demising thereof. *Co. 4. Inst. f. 111.*

21. *Untrue Accompts in the Exchequer.*

The Court to Enquire of, and Certifie unlawful, and untrue Accompts in the Exchequer sitteth by Com-

Commission under the Great Seal. *Co. 4. Inst. f. 117.*

22. *Armes, Sirname, and Barony.*

An Assignement to another of a mans Armes and Barony must be by Letters Patents under the Great Seal. *Co. 4. Inst. f. 126.*

23. *Tryal of Treasons &c. committed upon the Sea.*

The Court for the Tryal of all Treasons, Felonies, Robberies, Murders and Confederacies, committed or done upon the Sea by force of the Statute of 28 *H.* 8. *c.* 15. must be

by Commission under the Great Seal of *England*. *Co.* 4. *Inst. f.* 147.

24. *Beacons, Light-Houses, Sea-marks &c.*

At the Common Law none but the King only could erect Beacons, Light-Houses, and Sea-marks, which ever was done by the Kings Commission under the Great Seal. *Co.* 4. *Inst.* 148.

25. *Sewers.*

The Authority of those, that are employed about Sewers, is by Commission under the Great Seal of *England*. *Co.* 4. *Inst.* 275.

26. *Bank.*

26. *Bankrupts.*

The Authority of the Commissioners upon the Statute of Bankrupts, is by Commission under the Great Seal. *Co. 4. Inst. f. 277.*

27. *The Isles of Jersey, Man, &c.*

Albeit the Kings Writ runneth not into the Isles of *Jersey*, *Guernsey*, *Man*, &c. yet his Commission doth, but then it must be under the Great Seal. *Co. 4. Inst. f. 286.*

28. *Com-*

28. *Commissioners in Causes Ecclesiastical.*

The Assignation, and Authorizing of Commissioners, to execute the Ecclesiastical Jurisdiction, which was restored to Q. Elizabeth, ought to be under the Great Seal. *Co. 4. Inst. f. 326, & 327.*

29. *Delegates.*

The Commissioners, called Delegates, do sit by force of the Kings Commission under the Great Seal of *England. Co. 4. Inst. 339.*

30. *Par-*

30. *Pardoning part of the Judgement.*

In the Case of High Treason, committed by a Nobleman, if all the Rest of the Judgement (saving the beheading, which is part of the Judgment) be pardoned, this ought to be under the Great Seal of *England*. Co. 3. *Inst.* f. 35

31. *Prorogation of a Parliament.*

When the Parliament shall not begin at the day of the return, but for certain urgent Causes then to be prorogued until another day, then to be holden

en before the King, there is a ready way for the effecting thereof, and that is by Writ Patent under the whole Great Seal, &c. *Co. 4. Inst. f. 7.*

32. *Royal Assent.*

The Royal Assent, in the Kings Absence, to an Act of Parliament, is of validity and Force, if by Letters Patents under the Great Seal. *Co. 4. Inst. f. 28. 33 H. 8. c. 21.*

33. *Justice in Eyre.*

The Justice in Eyre of the Kings Forest, hath Authority, and Jurisdiction, to hear, and determin, touching Vert & Venison, &c.

&c. by force of Letters Patents under the Great Seal. *Co. 4. Inst. f. 391.*

34. *Forests Woods.*

When need is to sell seasonable woods within the Kings Forests, or Timber for his Majesties use, the same must be sold or taken by force of the Great Seal, or Exchequer Seal by view of the Foresters. *Co. 4. Inst. 299.*

35. *The proceedings of the Parliament in Ireland.*

All the Bills of Ireland, which are affirmed or altered here in *England*, ought to be returned under the Great Seal of *England.*

land. Co. 4. Inst. f. 353.

36. *The Isle of Man.*

The Isle of *Man*, which is no part of the Kingdom, but a distinct Territory of it self hath been graunted by the Great Seal to divers Subjects, and their Heirs; It was resolved by the Lord Chancellor, the two Chief Justices, and the Chief Baron that the same is an Estate descendible, according to the Course of the Common Law, for whatsoever Estate of Inheritance pass under the Great Seal of *England*, it shall be descendible, according to the Rules, and Course of the Common Law of *England*.

Co.

Co. Litt. 9. a. Co. 4. Inst. 284.

37. *The Kings Grant of Lands.*

By the Common Law no grant of any Lands is avayleable from the King, or pleadable, but under the Great Seal of *England*: But there are 3 Remedies, to have it under the Great Seal, as the Case shall require.

6. *The Remedy to have things under the Great Seal.*

1. A Man may have a *Duplicat* at the Sealing of the Letters Patents.

2. If they be lost, he may have a *Constat*, upon Oath

Oath made, that they be loſt, and that if they be found again, then they ſhall be reſtored again into the Chancery, to be Cancelled.

3. The Party may have an Exemplification upon the Inrollment.

Now an Exemplification is when a man will have any original Record written out, and exemplified forth of the Court, where it remains, to which purpoſe he may have a Writ, as appeareth by the Regiſter. *Orig. f.* 290.

And if a man will plead a Record in another Court than where it remaineth, it behooveth him to have this Record exemplified under the Great Seal of

Eng-

England if he be denied, for it ought to come into the Chancery by *Certiorare*, and there to be exemplified under the Great Seal, for if it be exemplified under the Seal of the Common Pleas or of the Exchequer, or such like, this will not serve, unless in Evidence to a Jury. See *Co. Lib.* 5. *f.* 53.

But heretofore a Deed inrolled could not be pleaded, though it were exemplified under the Great Seal, without shewing forth the Deed it self under Seal: *vide* 32 *H.* 8. in Patents *Br.* 12 *H.* 7. 12. *b.* and not the exemplification: And so no *Constat*, or *Inspeximus* of the

the Kings Letters Patents were avayleable to be shewed forth in Court, but the Letters Patents under Seal. For both the *Constat* and *Inspeximus* are but Exemplifications of the Inrollment of the Charters, or Letters Patents, and this appeareth by the Resolution of two several Parliaments, one holden in the third, and fourth year of King *Ed.* 6. and the other in the 13. year of Q. *Eliz.* But now by those Statutes the Exemplification, or *Constat* under the Great Seal of *England* of the Inrollment of any Letters Patents, made since the fourth day of February, *Anno* 27 *H.* 8. or after to be made, shall

3 & 4 E. 6. c. 4. & 13 *Eliz.* c. 6.

shall be sufficient to be pleaded, and shewed forth in Court, as well against the King as any other person, by the Patentees themselves, and by all and every other person or persons, claiming by, from, and under them. Which Statutes are general, and beneficial, and especially the Act of 13 *Eliz.* for that extends not only to Lands, Tenements, and Hereditaments, but to every other thing whatsoever, and ought to be favorably Construed for advancement of the Remedy, and Right of the Subject. And seeing the aforesaid Statutes do extend to make an Exemplification, or *Constat* of Letters Patents

to

to be pleadable, it will be not inconvenient, to shew the diversity betwixt an Exemplification, & a *Constat*, and the signification of other words, by which Letters Patents are commonly named, viz. *Inspeximus*, *Innotescimus*, & *Vidimus*.

7. *The difference betwixt a Constat, Inspeximus, & Vidimus.*

AN Exemplification, & an *Inspeximus* are all one, as an *Innotescimus*, and *Vidimus* are. *Co. Lib. 5. Page* Case. An *Inspeximus*, or an Exemplification begins in this manner: *Carolus Secundus Dei gratia &c. Omnibus &c. Inspeximus*

imus Irrotulamentum quarundam Literarum Patentium &c. and it doth recite the Record word by word, and doth conclude in this Form: *Nos autem tenorem Literarum Patentium prædict. &c. ad Requisitionem A.B. duximus ad Exemplificandum per Præsentes. In cujus rei Testimonium &c.* And it is called an *Inspeximus*, because it beginneth after the Stile of the King with *Inspeximus*. And 'tis called an Exemplification a *Reipsa*, because the Record by it is Exemplified, as it doth appear by the end of it. *viz. Duximus ad Exemplificandum per Præsentes*; And the Confirm doth begin after the Stile of the King: *viz.*

Con-

Constat nobis per Inspectionem Rotulorum Cancellariæ nostræ, quod Dominus Jacobus nuper Rex Angliæ Avus noster prætharissimus Literas suas fieri fecit Patentes in hæc verba &c. Jacobus Dei gratia. &c. and reciteth all the Letters Patents word by word. *Nos autem pro eo quod Literæ Patentes prædict. sunt casualiter amissæ, sicut A.B. nobis in Cancellariâ nostrâ personaliter sacramentum præstiterit Corporale, & quod ipse Literas prædictas, si eas in posterum reperire contigerit nobis in Cancellariam nostram restituerit Cancellandas, Tenorem Irrotulamenti prædicti ad Requisitionem A. B. duximus ad*

extra-

exemplificandum per præsentes. In Cujus Rei Testimonium &c. And it is called a *Constat*, for that after the style of the King it beginneth with this word *Constat*, but nothing is exemplified in the Tenor of the Record.

Also by what has been said, it is apparent that a man cannot have a *Constat* without an *Affidavit* (as it is seen by the form of the *Constat*) but an *Inspeximus* may be obtained without an *Affidavit*.

An *Innotescimus*, and a *Vidimus* be all one, They are always of a Charter of Feoffment, or some other Instrument, which is not of Record; And the *Innotescimus* doth begin

gin in this Form: *Rex &c. Omnibus &c. Inspeximus quoddam scriptum ten. per A. B. & G. Sigillo ipsius A. B. Sigillato, cujus tenor in hæc verba sequitur: Sciant præsentes &c.* and reciteth the Instrument *de verbo in verbum; & hoc omnibus quorum interest, aut interesse potest in præmissis innotescimus*: by reason of the word *Innotescimus* in the end, it is so stiled: and sometimes it doth commence, *Vidimus quoddam scriptum &c.* and then 'tis called a *Vidimus*.

Further there are these Diversities betwixt an Exemplification, and a *Constat*:

If the Kings Letters Patents

Patents be eaten with Rats, or stayned by any means, the Patentee (as it is a received Opinion) cannot have a *Constat*, but he may have an Exemplification upon the Record, for that the *Constat* is never had, but upon the Losing of the Patent.

Against Strangers as well as Privies may have an Exemplification, but a *Constat* only lyes for those that are Privies. 20 *H.* 7. 7. *b.*

I shall now conclude the Learning touching Exemplifications with these following Queries, with their Resolutions:

Quer. 1. Whether that which is to be Exemplified under the Great Seal, ought to be of Record?

Ref. Neither Deed, Charter, or other writeing, either Sealed, or without Seal, ought to be exemplified under the Great Seal, or any other Seal in Court of Record; for Seals of Courts of Record ought not to exemplify any thing, but that which is of Record, because Records be publique, whereunto every Subject may have Recourse, to confer the Exemplification with the Record it selfs. And Records be in the Custody of sworn Officers, and therefore no Inconvenience can follow upon the Exemplification of them. But a Deed, Charter, and other writings are private,

Co. Lit. f. 225. b.

Co. 3. Inst. 173.

vate, and remain in the Custody of the Party, and may be rased, interlined, or corrupted in points material, and if they should be exemplified, the Rasure, interlineation, and Corruption shall not appear therein. Also the Deed, Charter, or other writeing may be forged, and if they should be exemplified, then the exemplification might ever be shewed in evidence, and not the Deed &c. it self, and so the Forgery, and Falsity should never upon the view of the Deed, or of the Seal, or other things Rising upon the view, be discovered.

Qu. 2. Whether all Records may be exempli-

fied under the Great Seal of *England*?

Resp. No Record, or Inrolment of any Record, may be Exemplified under the Great Seal, but of a Record of the Court of Chancery, or other Record duely removed thither by *Certiorari &c.*

Co. 3 Inst. 173.

Qu. 3. Whether part of a Record can be Exemplified?

Resp. No Exemplification ought to be of any part of a Letters Patents, or of any other Record, or of the Inrollment thereof, but the whole Record of the Inrollment thereof ought to be Exemplified, so that the whole Truth may appear, and not of such part, as makes for

Co. 3. Inst. 173, & 174.

the

the one Party, and nothing, that makes against him, or that manifesteth the Truth.

Qu. 4. How an Exemplification of any Grant, Inrolled at the Rolls, is to be sued forth?

Res. If any Grant which hath passed the Great Seal, be inrolled in the Roles, and you would have it Exemplified, you must first search in the Chappel of the Rolls for the Inrollment thereof, which being found, any Clerk of that Office may engross the same: then must you get it examined with the Inrollment, by two Masters of Chancery, who must testify the said Exemplification under

their hands, and then (it being ready for the Great Seal) you must bear the Docket thereof unto the Lord Chancellor, to examine, and peruse the same, which being by his Lordship allowed, it may pass the Great Seal, and be exemplified. Thus much of the Diversity betwixt a *Constat*, *Inspeximus*, *Vidimus* &c. with other matters appertaining to Exemplifications. I go on now to mention the Eighth, and last thing propoled, *viz.* The Counterfeiting the Great Seal.

8. *Crimen Falsi or Counterfeiting the Great Seal.*

BY the Stat. of 25 *E.* 3. c. 2. *de proditionibus*

bus, it is declared, that if any man counterfeit the Kings Great Seal, it is *Crimen læsæ Majestatis Anglicanæ*, High Treason against the King; which Counterfeiting before this Act, was High Treason by the Common Law, as appeareth by our antient Lawyers, *viz. Bracton, Fleta, Britton*, and *Horne*, in his Mirror of Justices.

A Compassing, Intent, or going about, says *Coke*, to counterfeit the Great Seal is no Treason, but there must be an Actual Counterfeiting, also it must be to the Likeness of the Kings Great Seal; the words be, *Counterface le Grand Seal le Roy*. Co. 3 Inst. 15.

Now what shall be said

a Forging, or Counterfeiting this Broad Seal take these few Examples.

Co. 3. Inst. 15. If the Lord Chancellor, or Lord Keeper put the Great Seal to a Charter &c. without warrant, this is no Treason, because the Seal is not counterfeited. But it seemeth by *Britton fol.* 10. *b.* that it was Treason at the Common Law, and of that Opinion is *Fleta f.* 29. *a.* but it is no Treason now (without Question) by the negative Clause of the Act aforesaid.

If a man take wax Lawfully imprinted with the Great Seal from one Patent, and fix it to a writeing purporting a grant from the King, there have been

been divers Opinions in this Case what the Offence is, which I shall gather hearse.

In 40. Ass. which was about 15 years after the making of the Stat. of 25 E. 3. it was not holden High Treason, but a great Misprision, for that is no Counterfeiting of a new, but an abuse of the true Great Seal. 40. Ass. pl. 33.

A Chaplein had fixed the Great Seal to a Patent of Dispensation with Non Residence, and this was holden a Misprision, and not High Treason, for it was an abuse of the Great Seal, and no Counterfeiting of it. 37 H. 8. Br. Treason.

G. Leake, a Clerk of Chancery joyned two clean

clean Parchments fit for Letters Patents so close together with mouth glew, as they were taken for one, the uppermost being very thin, and did put one Labell through them both, then upon the uttermost he writ a true Patent, and got the Great Seal put to the Labell, and so the Labell, and the Seal were annexed to both the Parchments, the one written, and the other Blank: He cut off the glewed Skirts round about, and took off the uppermost thin Parchment (which was written, and was a true, and perfect Patent) from the Labell, which with the Great Seal did still hang to the Parchment,

ment, then he wrote another Patent on the Blank Parchment, and did publish it as a good Patent. Hereupon one of the Questions was, whether this Offence be High Treason, or no? And upon Conference had between the Judges, it was resolved by them, that this Offence was neither High Treason, nor Petit Treason, because it is not within either of the Branches of the Stat. of 25 *E.* 3. but it is a very great Misprision. Thus much of the Great Seal of *England*.

II. *Of*

II. *Of the Privie Seal.*

Parvum Sigillum, the Little, or Petit Seal, after called *Privatum Sigillum*, the Privie Seal, is a Seal, that his moſt Sacred, and excellent Majeſty uſeth ſometime for a warrant, whereby things paſſed the Privie Signet, and brought to it, are ſent further to be confirmed by the Great Seal of *England*: Sometime for the ſtrength or Credit of other things, written upon Occaſions more Tranſitory, and of leſs continuance, than thoſe be that paſs the Great Seal.

Co. 2. Inſt. 554.

This Seal is in the Cuſtody of the Clerk of the Privie

Coke Ibid.

Privie Seal, called Keeper of the Privie Seal, after called Lord Privie Seal, of which great Officer *Fleta* saith thus: *Custodi Sigilli privati assistunt Clerici honesti, & circumspecti, Domino Regi juxta, qui in Legibus & Consuetudinibus Angliæ notitiam habent plenioremn, quorum Officium sit, supplicationes & Querelas Conquerentium audire, & examinare, & eis super qualitatibus Injuriarum ostensarum, debitum Remedium exhibere per Brevia Regis*: By this antient writer (saith Sr. Ed. Coke) three things are worthy of Observation: *sc.* Lib. 2. c. 13.

1. That the Clerks Associates to the Keeper of

of the Privie Seal, are those we now call, Masters of Requests, *Magistri Libellis supplicum.*

2. Of what Quality ought these Masters of Requests to be? They must have 3 Qualities:

1. They must be honest, and Circumspect.

2. They must be sworn to the Lord our King.

3. They must have a compleat, and full knowledge, or skill in the Laws, and Customs of this Realm.

3. To what end did they hear, and examine the matters, conteined in these Petitions? That they (being skilfull, and expert in the Laws) should direct such

such as petitioned the King, to take their Remedy, according to their Case, either at the Common Law, or in the Court of Chancery.

Further: this Keeper of the privy Seal is a Lord by his Office, under whose hands pass all Charters signed by the King, before they come to the Broad, or Great Seal of *England*, and he does besides his Oath of a Privie Counsellor, take a Particular Oath of the Privie Seal, which doth consist of 4. parts, *viz.*

1. That he, as far forth as his cunning and discretion suffereth, justly, and evenly Execute and Exercise the Office of the

Keeper

of the Privie Seal, are those we now call, Masters of Requests, *Magistri à Libellis supplicum.*

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1. That he, as far forth as his cunning and discretion suffereth, justly, and evenly Execute and Exercise the Office of the Keeper

Keeper of the Kings Privie Seal, to him by his Highnes committed.

2. Not leaving, or eschewing so to doe for Affection, Love, Meed, doubt, or Dread of any Person, or Persons.

3. That he shall take special Regard, that the said Privie Seal in all Places, where he shall divert unto, may be in such substantial wise used, and safe kept, that no Person without the Kings special Commandment, or his Assent, or knowledg, shall move Seal, or imprint any thing with the same.

4. Generally, he shall observe, fulfil, and doe all, and every thing, which to the Office of the Keeper

er of the Kings Privie Seal duely belongeth, and appertaineth.

This is an Office, says Coke, of Great Truſt, and Skill, that he put this Seal to no grant without good warrant, nor with warrant, if it be againſt Law, undue or inconvenient, but that firſt he acquaint the King therewith.

Upon the Lord Privie Seal are Attendant four Clerks of the Privie Seal: They write, and make out all things, that be ſent by warrant, from the Signet to the Privie Seal, and are to be paſſed to the Great Seal; as alſo to make out (as they term it) Privie Seals, upon any ſpeciall Occaſion of his Majeſties Co. 2. Inſt. 555. Co. 4. Inſt. f. 55.

Majesties Affayrs, for Loan, or Lending of Money, or such Like.

27 H. 8. c. 11. What Fees these Clerks of the Privie Seal, and likewise of the Signet shall have, for their writing, and payns, appears by the Stat of 27 *H.* 8. whereby it is enacted, that every Clerk, and Clerks of the Signet, and Privie Seal shall have and take for the writing of a Warrant: *&c.*

1. Upon a Bill for *Tales* of Reward	0	1	0
2. For the gift of every Office	0	1	8
3 For a Pension, Annuity, or wages	0	1	8
5. For a Special Livery or other Perpetuity	0	6	8

5. Upon

5. Upon every Bill for *Congé D'eslyer*, Royal Assent, Restitution of Temporalties, Donatives, Advocations, Presentations, or other Ecclesiastical matter 0 3 8

6. For the writing of every warrant upon a Placard, License, Pardon, or Sheriffs Reward 0 2 0

7. For the writing of every warrant on a Denizen 0 3 4

8. For the writing of a warrant for keeping an Ideot 0 1 8

9. For the writing of a warrant for keeping of a ward 0 3 4

This much of the grand Person to whom this

this Privie Seal is delivered, his Associates, and his Attendants; I now proceed to Enquire the Law of *England*, that is found in our Books, touching the Privie Seal it self; viz. what matters are available, and what not under it.

1. *Essoyn or Protection.*

No Essoyn *de servitio Regis*, or Protection is available under the Kings Privie Seal alone. 2. *Inst.* f. 595.

2. *Money.*

Co. Lib. 11. Earl of Devonshire's Case. A warrant of the King under the Privie Seal to issue out Money out of his

but Coffers is sufficient, because it concerneth but a Chattel in possession; but the Privie Seal is not a sufficient warrant for inheritances, nor Chattels Reals, but only for Chattels Personals, as Money, &c. *Moores* Reports the Queen v. *Dodington* f. 476. Co Lib: Lanes Case.

3. *Matters of small Moment.*

In Matters of small Moment, and which can work no Delay to the Subject, the Privie Seal is sufficient, as to grant a *supersedeas* of a process in the Kings own Case, or to grant a *Nisi Prius*, where the King is Party, or to allow a Plea against the

the King, to Cancel a Recognizance made to the King, to discharge a Debt, or the like. *Co. Lib. 2. Lanes* Case.

4. *An Attorney.*

The King may grant one to make an Attorney by his Letters Patents under the Privie Seal. 37 *H.* 6. 27. *b.*

5. *Peregrination.*

The King may grant License to Travel beyond the Seas under the Privie Seal, and may command Persons that are beyond Seas, by his writ under the Privie Seal, in *Fide & Ligeantia &c.* to return into

into the Kingdom, and if they return not, for their Contempt their Lands and Goods ſhall be ſeiſed, *Quouſque &c. 3. Inſt.* f. 179, & 180.

6. *Abſence from Parliament.*

The Kings Licenſe to a Lord of Parliament to be abſent, and to make *Proxies*, may be under the privie Seal.

7. *The proceſs of the Dutchey.*

The Proceſs in the Court of the Dutchey Chamber is by Privie Seal, Attachment &c. *4. Inſt.* f. 206.

8. *Summons to the Great Councill.*

The Summons to the Great Council (the Lords of Parliament) after King *E.* 3. have been under the Privie Seal. *Elsing.*

9. *Precedency.*

Amongst the Kings Learned Council at Law a Privie Seal is sufficient to give Precedency. *Cro.* 3. part. *f.* 376.

10. *Dutchey Land.*

It was said by the Court, that a grant of an Office, of keeping the Courts of the Dutchey Land by Privie

vie Seal, is not good; but it ought to be by the Dutchey Seal. *Noys Reports*, Lord *Willoughby v. Kemp*.

11. *Sheriffs of London in Debt.*

1 E. 4. 14. inter Brevia coram Baronibus, lou les viscounts Londres voylent aver eux excuse de 24. expose per Commandment le Roy south son signet, & non potuerunt, mes fuerunt chase al Privis Seal.

12. *The Kings Treasure.*

A Privie Seal is not sufficient Authority to dispose of the Kings Treasure, unless where it be due, as appears by this

following Case.

An Information in the Exchequer, in the nature of an Accompt, was brought against *Dodington*, as Executor of Sr. *Walter Mildmay*, supposing that Sr. *Walter* had received money of the Queen, amounting to 1500 l. upon speciall verdict the Case was; that Sr. *Walter Mildmay* had recived annually out of the Exchequer 50 l. as a Fee for his Dyet for 30 years together, which was payd him by the Command of the Lord Treasurer, who had Authority by Privie Seal, to make Allowance, and payment of the Fees due; But in Truth these were not any Fees due: And whether

Cro. 1. part Dodingtons Case.

whether his Executor ſhall be charged with theſe ſumms ſo received was the Queſtion. And after Argument it was adjudged, that he ſhould be charged, for it was held, that this payment of the money by the appoyntment of the Lord Treaſurer, was not allowable: For the Privie Seal is not ſufficient Authoritie to diſpoſe of the Q. Treaſure, unleſs where it is due, and he diſpoſing it otherwiſe, it is out of his Authoritie; And therefore the Executors ought to refund. Thus much of the Privie Seal, as we find in our Books of Law; I come to mention ſome Statutes.

It is said, that *Desouth le petit Seal, ne issera desormes nul Brief que touche le Common Ley*: But the Act saith not, that all writs, which concern the Common Law shall pass under the Great Seal, but no writ shall pass under the Privie Seal, which touches the Common Law; For it is to be known, that the Courts of Kings Bench, and of the Common Pleas had at the making of the Statute several Seals, whereby they sealed Judicial writs.

Art. super Chartas c. 6.

Wee find a Petition of the Commons in 2 *H.* 4. that no writs, or Privie Seals be sued out of the Chancery, Exchequer, or other Place, to any man

Rot. Par. 2 H. 4. nu. 69.

to

to appear upon a Pain &c. to answer &c. contrary to the Ordinary Course of the Common Law: whereunto the King answered, that such writs should not be granted without necessitie.

By an Act of Parliament not in Print, it is enacted that no Purveyor arrested for any misdemeanor shall have any Privie Seal, to cause such as arrested him to come before the Council, to answer the King, but have his Remedy by the Common Law. Rot. Par. Anno 28 E. 3. nu. 34.

By the Stat. of 11 R. 2. c. 10. it is provided, that Letters of the Privie Seal shall not be from henceforth sent in Da-

mage or prejudice of the Realme, or in disturbance of the Law.

Co.3.Inst. f.16.

By the Stat. of 25 E.3.c. 2. it is declared, and enacted, that the Counterfeiting the Kings Privie Seal is High Treason: This Statute naming the Great and Privie Seal, the Forging, and Counterfeiting the Privie Signet, or of the Sign Manual, was not within this Statute: But by the Stat. of 1 *Mar.* it is made High Treason in both Cases. Thus much of the Kings Privie Seal.

III. *Of*

III. *Of the Exchequer Seal.*

THe Seal belonging to the Court of Exchequer is in the Custody of the Chancellor, of whom these following, Authors speak thus: *&c.*

1. *Fleta: Officium Cancellarii est Sigillum Regis custodire simul cum Contrarotulis de proficuo Regni.* Lib. 2. C. 29.

2. *Ockam: Ad Cancellarium Scaccarii pertinet Custodia Sigilli Regis.*

3. *Plowden: L'eschequer ad Chancellor & Seal & les Briefes usuall en le Chancery en L'eschequer de seiser le Terre en tiel Case, sont pluis ancient, que le* Com. f. 321. a Information pur Mines.

Register, *ou le Treatise Prærogativa Regis*: The Exchequer hath a Chancellor, and Seal, and the writs usual in the Chancery of the Exchequer, are more antient than *Prærogativa Regis*.

4. *Minshæus*: The Office of the Chancellor of the Exchequer hath been thought by many, for the qualifying of the Extremities in the Exchequer: He sitteth in the Court, and in the Exchequer Chamber, and with the rest of the Court ordereth things to the Kings benefit: he is always in Commission with the Lord Treasurer, for the Letting of the Lands, that come to the Crown by the

D. flo-

Dissolution of Abbeys; and hath by Privie Seal from the King, power with others, to compound for Forfeiture of Bonds, and Forfeitures of Penall Statutes. He hath also much to doe in the Revenue come by the Dissolucion, and First Fruits, as appeareth by the Acts and Statutes of uniting them to the Crown.

Thus much of the Office, and Antiquity of the Chancellor; I proceed to shew the Law of *England*, relating to the Exchequer Seal it Self, that is in the Custody of the Chancellor. And we find, that this Seal is an Incident inseparable to the Court of Exchequer, for the Sealing

ing of all Judicial Writs, &c. which for Administration of Justice Distributive to all men, are under the said Seal, and without which the Court cannot administer Justice: And therefore the profits, coming of this Seal, as of other Seals, belonging to other Courts, have been letten, and demised of antient and latter times, but the Seals themselves were never demised, or letten, nor could be, nor any other Keeper appointed to be Keeper of them, than hath been time out of mind. Now what shall pass under the Exchequer Seal, or what shall be avayleable under it, take these subsequent

Co. 2. Inst. 555.

sequent Cases and Authorities, found in our Books of Law.

The Queen seised of a Mannor in the Right of her Crown, by her Steward granted Copyhold Lands parcell thereof to one by Copy, according to the Custome in Fee: And after the Queen under the Exchequer Seal, made a Lease of the same Lands to another for 21 years &c. Resolved, that the Lease under the Exchequer Seal was good, by usage there, for the Course of every Court is as a Law, of which the Common Law takes notice without alledging of it in pleading. And as the Court of Exchequer

Co. Lib. 2. fol. 16. Lanes Case.

may

may demiſe the Kings Lands for years under its Seal, ſo it can alſo demiſe for Life, although by the Common Law, no grant of any Land is avayleable, or pleadable, but under the Great Seal of *England*, as hath been ſaid; And therefore in the Caſe betwixt *Kemp & Barnard*, upon a ſpecial verdict, the Queſtion was, whether a Leaſe by the King under the Exchequer Seal of Lands uſually demiſed to one for Life, Remainder for Life, Remainder to a third for Life, reſerving the uſuall Rent, ſhall be good or not? *Maynard* for the Defendant very much urged, that it could not be, but under

Cro. 3. part. f. 513. in Banco Regis.

under the Great Seal; For a Freehold cannot pass from the King, but by Patent under the Great Seal. But all the Justices held, that Leases for Life under the Exchequer Seal, being of Lands usually Leased, and reserving the antient Rent, are allowable: It being good for the Kings Benefit, that his Land shall not lye unletten. And *Fowes* affirmed, that all the Barons of the Exchequer said, that it was their Course to demise as well for Life as for years, and it hath always been so allowed, and of their Course there this Court shall take Conusance.

Upon Demurrer Question

on was made, wether a Leaſe of a Mannor being forfeited to the Queen by Attaynder of Treaſon, may be granted under the Exchequer Seal. *Popham*: If any Mannor, or Land, of whatſoever value comes to the King by Attaynder, or otherwiſe, the Cuſtody thereof may be granted over, under the Exchequer Seal, by the Authority of the Lord Treaſurer, and Chancellor there, without ſpeciall warrant: For it is but a diſpoſing of the Profits, becauſe the King himſelf cannot manure it; And it is always Revocable, *Si quis plus dare voluerit*: So a Leaſe for years of anothers Land, which comes to the King

King by Attaynder, is but a Chattell in him, and vendable for his best profit, and therefore it is grantable under the Exchequer Seal; For it is as a Sale wherefore the grant is good; and to that Opinion the other Justices agreed.

An Office found by Inquisition, by vertue of a Commission, under the Exchequer Seal, is sufficient to intitle the King to a Chattell. Co. Lib 5. Knights Case. Co.Lib.5. Pages Case.

An Office of Instruction or Information may be under the Exchequer Seal. Cro.3. part Grosse v. Gayer.

Seasonable Woods within the Kings Forests, or Timber for his Majesties use, may be sold or taken Co 4.Inst. f.299.

as

as well by force of the Exchequer Seal, as the Great Seal.

16 H.7. 11.b Co. Litt. 260.a. Note: It was said by the whole Court for Law, that a man may well say against a Record, certified under the Seal of the Exchequer, or the Common Banke, *Nul Tiel Record*, because that is nothing but a *Transcript* of the Record: But to Letters Patents (as it hath been said before) under the Great Seal, a man cannot plead, *Nul Tiel Record*.

Know likewise Reader, that of small things, Leases are wont to be made under the Exchequer Seal, as appears by many antient Precedents, before, and in the time of *Ed.3.* and

and by Infinite Precedents ſince to this day; And ſuch Leaſes made according to the ſaid Precedents were allowed to be good: And there were 3. Cauſes of the Commencement of this uſage:

1. For the multiplicity, that every poor man ſhould be driven, for ſuch infinite number of Leaſes, to ſue to the King for Cottages, and other petty things, to paſs by the Signature of the King, the Signet, the Privie Seal, and the Great Seal.

2. For neceſſity; leſt a poor and indigent ſubject ſhould be driven to a tedious Suit, and the Land will lye many times without a Tenant, to the Kings

Kings Damage.

3. For the Impossibilitie, because many times the subject was not able, nor the thing demised was not of value to pass the Great Seal: but to them that are Rich, *Lokes* advice is, to pass their Leases under the Great Seal, for this, says he, is a sure way.

IV. *Of*

IV. *Of the Signet.*

THis Seal is in the Custody of the Principall Secretary, as well for Sealing his Majesties private Letters, as also such grants as pass the Kings Hands by Bill assigned; And there are four Clerks of the Signet, called *Clerici Signeti*, attending on this Secretary in their Course, and were used to have their Dyet at his Table.

The Duty of these Clerks, is to write out such grants, or Letters Patents, as pass by Bill signed (that is, a Bill superscribed with the Signature,

ture, or ſigne Manual, or Royal Hand of the King) to the Privie Seal, which Bill being tranſcribed, and Sealed with the Signet is a warrant to the Privie Seal, and the Privie Seal is a warrant to the Great Seal.

Co. 2. Inſt. f. 556. Such was the wiſdome (ſays Sr. *Ed. Coke*) that whatſoever ſhould paſs the Great Seal, ſhould come through ſo many hands, to the end that nothing ſhould paſs that Great Seal, that is ſo highly eſteemed, and accounted of in Law, that was againſt Law, or inconvenient, or that any thing ſhould paſs from the King any ways, which he intended not, by undue, and ſurreptitious means. But it

it is to be observed, that when any Act of Parliament doth Authorise the Lord Chancellor, or Lord Keeper, to make, or grant any Commission, under the Great Seal, that he may make or grant the same without any further warrant, because the King is Party to the Act of Parliament, and there cannot be a greater warrant to the Lord Chancellor, than an Act of Parliament. Co. 4. Inst. f. 167.

Now of the Signet the Law in some Cases taketh Notice; And therefore a *Ne exeat Regnum* may be as well under the Signet, as under the Great Seal; or in this Case the Subject ought to take notice, Co. Lib. 2. Lanes Case Co. 2 Inst. f. 556.

as

as well of the Signet, as of the Great, or Privie Seall; Because this is but a Signification of the Kings Commandment, and nothing passes from him.

The King may grant License to travell beyond the Seas under the Signet, but he cannot recall one that is beyond Seas by the Signet, but it must be by the Great, or Privie Seal: but note, that the Letters under the Great Seal, or Privie Seal to recall any from beyond Seas, ought to be served by some Messenger, who upon his Oath, is to make a Certificate thereof in the Chancery, and from thence a *Mittimus* to be sent into the Exchequer, and there-

Co. 3. Inst. f. 180.

Dyer. Hill. 2 Eliz. f. 176. 10. *H.* 4. 5.

thereupon a Commission to be granted, to seise the Lands, and Goods of the Delinquent.

A warrant under the Signet is not sufficient to issue any Treasure of the King out of the Receipt, but it must be under the Great, or Privie Seal, as is said before.

Co. 4. Inst. f. 116. Co. Lib. 2. 16. Lanes Case.

A Discharge under the Privie Signet of a Debt due by the Sheriff was held not sufficient; but he ought to have it under the Privie Seal, and then it is a good discharge in Law.

Co. Lib. 2. 16. Lanes Case.

This may suffice touching the Kings 4 principall Seals, of which our Common Law doth take especiall notice: I shall now

put a period to this small Tract, with a Demonstration of the Manner (besides what has been mentioned already) how things pass the 3 Seals, viz. The Great Seal, the Privie Seal, and the Signet.

Concerning the Kings Letters Patents, this is the Course, saith an Author, in his discourse of the High Court of Chancery: viz. If the Letters Patents pass by the Bill signed without any Privie Seal, the Patent is subscribed *per ipsum Regem*, and then the Bill signed remaineth with the Lord Chancellor for his warrant. And when it passeth by Bill signed, and Privie

Seal

Seal alſo, then the Privie Seal remaineth with the Lord Chancellor, and the Bill ſigned with the Clerk of the Signet, and the Lord Privie Seal hath an Extract of it, to make the Privie Seal by, and then the Letters Patents are ſubſcribed *per Breve de privato ſigillo*. And if *per Authoritatem Parliamenti* be added, then it muſt paſs according to the Statute of 27 *H.* 8. *c.* 11. And when the King ſigneth the Patents himſelf in the upper part, and the Signature, and the Great Seal do paſs together at one and the ſame time, then it is ſubſcribed *per ipſius Regem manu ſuâ propriâ*. And when it is made by

Authority of Parliament, then it is subscribed *per ipsum Regem, et totum Concilium in Parliamento*, or to the same Effect. *Co. Lib. 8.* The Princes Case.

Every warrant sent by the King to the Lord Chancellor, the Day of the Delivery of the same to the Chancellor shall be entred of Record in the Chancery, and the Chancellor shall cause Letters Patents to be made upon the same warrant, bearing date the day of the Delivery in the Chancery, and not before in any wise; And if any Letters Patents be from thenceforth made to the Contrary, they shall be void, and holden for none by the

the Stat. 18 *H.6 c.1.* And for the full exposition of this Statute, see *Ludford* and *Gretions* Case in *Plowdens Commentaries*, and *Dyer, f.* 133. From the Stat. of 18 *H.6.* I proceed to recite the very words of the Stat. of 27 *H.* 8. *c.*11. that does direct, how, and in what manner, the Kings Grants, Writings, and Leases shall at this day pass the 3 aforesaid Seals.

It is enacted, that every Gift, Grant, or other writing which shall be made in writing by the Kings Highness or any of his most noble Posterity, to any person, signed with his Graces signe, or the signe, or signes Manual of any of them, to be

passed under the Great Seal of *England*, shall be brought, and delivered to the Kings Principal Secretary, or to one of the Clerks of the signet for the time being, to be at the Office of the signet passed accordingly. Likewise that one of the Clerks of the Signet, to whom any of the said writings signed with the Kings Hand, fortune to be delivered, shall by warrant of the same Bills, within the space of 8 days, next after he shall have received the same, unless he have knowledge by the said Secretary, or otherwise of the Kings Pleasure to the Contrary, cause to be made in the Kings

Kings name, Letters of warrant, ſubſcribed with the hand of the ſame Clerk, and ſealed with the Kings Signet, to the Lord Keeper of the Kings Privie Seal, for further Proceſs to be had on that behalf. And that one of the Kings Clerks of the Privie Seal, upon due examination had, by the ſaid Lord Keeper, of the ſaid warrant addreſſed to him from the Office of the Signet, ſhall within the ſpace of 8 days, next after he ſhall receive the ſame, unleſs the Lord Keeper of the Privie Seal do give them Commandment to the Contrary, make, or cauſe to be made by warrant of the afore-

said warrant to the Lord Keeper of the Privie Seal, other Letters of like warrant, subscribed with the name of the Clerke of the Privie Seal, to the Lord Chancellor, or Lord Keeper of the Great Seal, for the ensealing with it the said Grants &c. of the King, according to the Tenor of the warrant to the Lord Chancellor, directed from the Officer of the Privie Seal, as is aforesaid specified.

Thus Reader, having presented to thy view what I have met withall in our Books of Law, touching these 4 Seals, *viz.* The Great Seal, the Privie Seal, the Exchequer Seal, and the Signet, I conclude

my

my mean Collections with these words, &c.

Ego seram Immortalitatem precor supremo sigillorum Domino, Regi nostro Augustissimo, Carolo à Carolo, in vita diuturna sit, & aeterna majestas.

FINIS.

THE TABLE.

I. OF the Great or Broad Seal of *England* Pag. 2

1 *The Etymologie of the word Chancellor* 7
2 *The Antiquity of this Officer* 10
3 *His Creation* 11
4 *His Qualifications* 12
5 *His Duty* 14
6 *His Jurisdiction power and Authority* 16
7 *His honour and precedency* 27
8 *His priviledges* 28
9 *His Assistants* 29
10 *His Attendants* 31

1 *What the Seal is* 33
2 *The Antiquity of Sealing* 34
3 Sigillum Regis, *what* 35
4 *The Pleading a thing under the Great Seal* 37
5 *What things ought to pass the Great Seal* 43
1 *Auditors* ibid.
2 *Summons in Parliament* 44
3 *Kings Treasure* ibid.
4 *An Office of Intitleing* 45
5 *Reteiner* 47
6 *Private Acts* 48
7 *Essoyn and Protection* ibid.
8 *Travelling beyond Seas* 49
9 *Guardians of England* ibid.
10 *Steward of England* 50
11 *Person*

11 *Person accused of Treason* 51
12 *A Ward* ibid.
13 *Claimes before a Coronation* 52
14 *President of the Councel* 53
15 *Riots, Extortions &c.* ibid.
16 *Redress of delays* 54
17 *Judges discharged* ibid.
18 *Process in Star-Chamber* 55
19 *The Office of the Treasurer* ibid.
20 *Lands in the Kings hands* 56
21 *Unstrue Accompts in the Exchequer* ibid.
22 *Armes, Sirname, and Barony* 57
23 *Tryal of Treasons &c.* ibid.
24 *Beacons, Light-houses, Sea-*

Sea-marks 58
25 Sewers ibid.
26 Bankrupts 59
27 The Isles of Jersey and Man &c. ibid.
28 Commissioners in Causes Ecclesiastical 60
29 Delegats ibid.
30 Pardoning part of Judgement 61
31 Prorogation of Parliament ibid.
32 Royal Assent 62
33 Justice in Eyre ibid.
34 Forrests Woods 63
35 The proceedings of the Parliament in Ireland ibid.
36 The Isle of man 64
37 The Kings Grant of Lands 65
8 The Remedy to have things under the Great Seal ibid.
7 The difference betwixt

4 Conſtat, Inſpeximus and Vidimus 70
8 Crimen falſi, or Counterfeiting the Great Seal 80

II. Of the Privie Seal 86

1 Eſſoyne or Proteſtion 94
2 Money ibid.
3 Matters of Small moment 95
4 An Attorney 96
5 Peregrination ibid.
6 Abſence from Parliament 97
7 The proceſs of the Dutchy ibid.
8 Summons to the Great Council 98
9 Precedency ibid.
10 Dutchy Lands ibid.
11 Sheriffs of London in Debt 99
12 The

12 *The Kings Treasure* ibid.

III. Of the Exchequer Seal 105

IIII. Of the Signet 107

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